

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JUAN BRADLEY,

Plaintiff,

v.

OSCAR HARRIET, MARSHALL LUX,
HASANN MUHAMMAD, HAROLD
CLARKE, WARREN K. URBOM, and
JAMES DAVIS,

Defendants.

8:10CV404

**MEMORANDUM
AND ORDER**

This matter is before the court on Plaintiff's Motion for Leave to Proceed In Forma Pauperis. (Filing No. [2](#).) As set forth in the Prison Litigation Reform Act ("PLRA"), a prisoner cannot:

[B]ring a civil action . . . or proceeding [in forma pauperis] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action . . . in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

[28 U.S.C. §1915\(g\)](#).

The following four cases brought by Plaintiff were dismissed because they were frivolous:

- *Bradley v. Urbom*, No.8:92CV54 (D. Neb.), dismissed as frivolous on March 10, 1992.
- *Bradley v. The Senate*, No. 8:92CV96 (D. Neb.), dismissed as frivolous on May 7, 1992.
- *Bradley v. U.S. District Court*, No. 8:92CV127 (D. Neb.), dismissed as frivolous on March 13, 1992.
- *Bradley v. Urbom*, No. 8:92CV188 (D. Neb.), dismissed as frivolous on April 13, 1992.

The Eighth Circuit has recognized that civil actions or appeals dismissed as frivolous, malicious, or for failure to state a claim before the effective date of the PLRA, are to be counted in

determining whether a prisoner has three “strikes” and therefore may no longer prosecute a claim in forma pauperis. See [*In re Tyler*, 110 F.3d 528, 529 \(8th Cir. 1997\)](#) (recognizing without discussion the dismissal of Plaintiff’s pre-PLRA claims in determining his number of strikes). Accordingly, Plaintiff has until November 29, 2010, to show cause why he is entitled to proceed In Forma Pauperis (IFP) pursuant to [28 U.S.C. §1915\(g\)](#). Alternatively, Plaintiff may pay the full \$350.00 filing fee no later than November 29, 2010. In the absence of good cause shown or the payment of the full filing fee, Plaintiff’s Complaint and this matter will be dismissed without further notice.

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Motion for Leave to Proceed In Forma Pauperis (filing no. [2](#)) is denied. Plaintiff has until November 29, 2010, to either show cause why he is entitled to proceed IFP pursuant to [28 U.S.C. §1915\(g\)](#) or pay the full \$350.00 filing fee. In the absence of either action by Plaintiff, this matter will be dismissed without further notice.

2. The Clerk of the court is directed to set a pro se case management deadline in this matter with the following text: November 29, 2010: Deadline for Plaintiff to show cause or pay full filing fee.

DATED this 29th day of October, 2010.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

*This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.